

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTHONY ANDRE SHARP,

Petitioner,

v.

EDWARD BORLA, WARDEN,

Respondent.

Case No. 1:23-cv-01557-NODJ-HBK (HC)

ORDER DENYING PETITIONER'S MOTION
FOR DEFAULT JUDGMENT

(Doc. No. 14)

Pending before the Court is Petitioner's motion for default judgment. (Doc. No. 14). Petitioner is proceeding pro se on a petition for writ of habeas corpus under 28 U.S.C. § 2254. (Doc. No. 1, "Petition"). Petitioner asks that a judgment be entered in his favor on his Petition because Respondent did not timely file an Answer to the Petition by the Court's deadline of no later than 60 days after the November 20, 2023 entry of the Court's order requiring a response to the Petition. (Doc. No. 14). As a result, Petitioner contends he must be granted resentencing or immediate release. (*Id.* at 2).

In general, default judgments are disfavored in habeas corpus cases and a petitioner is not entitled to a default judgment merely because a respondent may have failed to file an answer or other response. *Gordon v. Duran*, 895 F.2d 610, 612 (9th Cir.1990) (stating "[t]he failure to respond to claims raised in a petition for habeas corpus does not entitle the petitioner to a default judgment"). Moreover, as indicated in the Court's November 20, 2023

1 Order requiring a response to the Petition, Respondent was directed to file either an Answer
2 addressing the merits of the Petition or a motion to dismiss the Petition within the 60-day
3 deadline. (Doc. No. 5 at 1-2). A review of the docket reveals that Respondent timely filed a
4 motion to dismiss on January 19, 2024. (Doc. No. 11). On February 6, 2024, the Court granted
5 Petitioner an extension of time to respond to Respondent's motion to dismiss. (Doc. Nos. 13, 15).
6 Thus, Petitioner's motion based on Respondent's alleged failure to timely file an Answer is
7 without factual basis.

8 Accordingly, it is **ORDERED**:

9 Petitioner's motion for default judgment (Doc. No. 14) is DENIED.

10
11 Dated: February 8, 2024


HELENA M. BARCH-KUCHTA
UNITED STATES MAGISTRATE JUDGE